

## HOUSE BILL NO. 286

INTRODUCED BY B. THOMAS

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING THE RIGHT OF CRIME VICTIMS TO ATTEND CRIMINAL PROCEEDINGS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**NEW SECTION. Section 1. Crime victims -- family members -- right to attend proceedings --**

**exceptions.** (1) Except as provided in subsection (2), a victim of a criminal offense has the right to be present during any trial or hearing conducted by a court that pertains to the offense, including a court proceeding conducted under Title 41, chapter 5. A victim of a criminal offense may not be excluded from any trial or hearing based solely on the fact that the victim has been subpoenaed or required to testify as a witness in the trial or hearing.

(2) A judge may exclude a victim of a criminal offense from:

(a) a trial or hearing upon the finding of specific facts supporting exclusion or for disruptive behavior; or

(b) a portion of a proceeding under Title 41, chapter 5, that deals with sensitive personal matters of a youth or a youth's family and that does not directly relate to the act or alleged act committed against the victim.

(3) If a victim is excluded from a trial or hearing upon the finding of specific facts supporting exclusion, the victim must be allowed to address the court on the issue of exclusion prior to the findings.

(4) A family member of a victim may not be excluded from a trial or hearing based solely on the fact that the family member is subpoenaed or required to testify as a witness in the trial or hearing unless there is a showing that the family member can give relevant testimony as to the guilt or innocence of the defendant OR THAT THE DEFENDANT'S RIGHT TO A FAIR TRIAL WOULD BE JEOPARDIZED IF THE FAMILY MEMBER IS NOT EXCLUDED.

(5) As used in this section, "victim" means:

(a) a person who suffers loss of property or bodily injury as a result of:

(i) the commission of an offense;

- 1 (ii) the good faith effort to prevent the commission of an offense; or  
2 (iii) the good faith effort to apprehend a person reasonably suspected of committing an offense;  
3 or  
4 (b) a member of the immediate family of a homicide victim.  
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6 NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an  
7 integral part of Title 46, chapter 24, part 1, and the provisions of Title 46, chapter 24, part 1, apply to  
8 [section 1].  
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10 NEW SECTION. **Section 3. Saving clause.** [This act] does not affect rights and duties that  
11 matured, penalties that were incurred, or proceedings that were begun before [the effective date of this  
12 act].  
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14 NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.  
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